

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

|                               |   |                               |
|-------------------------------|---|-------------------------------|
| FRANK MURPHY,                 | ) |                               |
|                               | ) |                               |
| Plaintiff,                    | ) | Case No. 2:19-cv-1232         |
|                               | ) |                               |
| vs.                           | ) | Magistrate Judge Nancy Joseph |
|                               | ) |                               |
| WISCONSIN CENTRAL LTD.,       | ) |                               |
| a Delaware Corporation, d/b/a | ) |                               |
| CANADIAN NATIONAL RAILWAY     | ) |                               |
| COMPANY,                      | ) |                               |
|                               | ) |                               |
| Defendant.                    | ) |                               |

**DEFENDANT WISCONSIN CENTRAL LTD.'S MOTION TO EXCLUDE  
EVIDENCE AND TESTIMONY FROM PLAINTIFF'S EXPERT WITNESS JOSEPH WU**

COMES NOW Defendant, Wisconsin Central Ltd. ("WCL"), and by and through its attorneys and pursuant to Rules 26(a) and 37(c) of the Federal Rules of Civil Procedure, hereby moves this Court for an order excluding the expert report of Dr. Joseph Wu. In support, WCL states the following:

1. Plaintiff's disclosure of this expert witness' report was untimely according to this Court's scheduling order, and Plaintiff made no motion or request for an extension of time for disclosure of expert witnesses.
2. Plaintiff's untimely disclosure of this expert witness is prejudicial to Defendant in that the time for discovery is closed, and Defendant has not had an opportunity to obtain an expert in rebuttal.

In support of this motion, WCL is filing herewith a memorandum of law in support.

WHEREFORE Defendant WCL moves this Court to exclude the untimely expert report of Dr. Joseph Wu, on the grounds of Plaintiff's late disclosures in violation of Rules 26(a) and 37(c) of the Federal Rules of Civil Procedure, and prejudice to WCL; to enter an order reflecting the same; and to grant WCL such other and further relief as is proper and just.

Dated: January 18, 2022

Respectfully submitted,

FLETCHER & SIPPEL LLC

By: s/Peter C. McLeod  
One of the Attorneys for  
WISCONSIN CENTRAL LTD.

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**CERTIFICATE OF SERVICE**

The undersigned states that on the 18<sup>th</sup> day of January, 2022, he caused a true and correct copy of **Defendant Wisconsin Central Ltd.'s Motion to Exclude Evidence and Testimony from Plaintiff's Expert Witness Joseph Wu** to be filed via the ECF system of the United States District Court for the Eastern District of Wisconsin, said system providing notification upon the following ECF-registered parties:

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/s/Peter C. McLeod

One of the Attorneys for  
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